

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

---

DEBORAH CHAMPLUVIER,	)	
	)	
Plaintiff,	)	
	)	Case No. 2:21-cv-02072-JPM-tmp
v.	)	
	)	
DR. GARY D. SIMPSON, DDS, d/b/a	)	
MIDSOUTH DENTAL CENTER,	)	
	)	
Defendant.	)	

---

**ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING  
MOTION TO REMAND**

---

Before the Court is the Report and Recommendation of the Magistrate Judge, entered on March 30, 2021. (ECF No. 26.) The Magistrate Judge recommends that the Court construe Plaintiff Deborah Champluvier's Objection to Defendant's Notice of Removal (ECF No. 12) as a Motion to Remand and grant that Motion. (ECF No. 26 at PageID 114–17.) The Magistrate Judge further recommends that the Court deny Defendant's Motion for Judgment on the Pleadings (ECF No. 10) as moot and without prejudice. (Id. at PageID 118.) If the Court finds that remand is not warranted, the Magistrate Judge recommends that the Court grant Defendant's Motion. (Id. at PageID 118–26.) Plaintiff filed a timely objection to the Magistrate Judge's Report on April 13, 2021. (ECF No. 31.) Defendant has not filed any objection.

Neither Plaintiff nor Defendant has objected to the Magistrate Judge's finding that the Plaintiffs' Motion to Remand be granted.<sup>1</sup> "When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b) advisory committee note. The Court therefore reviews the Magistrate Judge's findings of fact and law as to Plaintiff's Motion to Remand for clear error.

The Magistrate Judge found that complete diversity exists in this case, because Plaintiff is a citizen of Mississippi and Defendant is a citizen of Tennessee and the estimated damages exceed the statutory requirement. (ECF No. 26 at PageID 115.) However, the Magistrate Judge also found that 28 U.S.C. § 1441(b)(2) requires remand because Defendant is a citizen of the State in which the action was brought, i.e., Tennessee. (*Id.* at PageID 115–16.) Finally, the Magistrate Judge found that "given Champluvier's *pro se* status... her motion sufficiently raises the forum-defendant rule" by arguing that Defendant is a resident of Tennessee and that the conduct alleged in the complaint all took place in Memphis, Tennessee. (*Id.* at PageID 116–17.)

On clear-error review, the Court **ADOPTS** the Report and Recommendation in its entirety. Plaintiff's Motion to Remand is **GRANTED**. This case is remanded to state court. Therefore, Defendant's Motion for Judgment on the Pleadings is **DENIED AS MOOT**.

Because Plaintiff's Motion to Remand is granted, all remaining motions in the case (see ECF Nos. 29, 30 & 32) are also **DENIED AS MOOT**.

---

<sup>1</sup> Plaintiff instead objects to the Magistrate Judge's jurisdiction to enter orders in this matter and to the Magistrate Judge's recommendation that Defendant's Motion for Judgment on the Pleadings be granted if the Court does not grant Plaintiff's Motion to Remand. (See generally ECF No. 31.) The Court notes that the Magistrate Judge's management of this case has been proper pursuant to Administrative Order No. 2013-05, which refers "all pending and future cases filed by *pro se* non-prisoner plaintiffs... to the assigned magistrate judge for management of all pretrial matters."

**SO ORDERED**, this 20th day of April, 2021.

/s/ Jon P. McCalla  
JON P. McCALLA  
UNITED STATES DISTRICT JUDGE